



General Assembly

February Session, 2000

***Amendment***

LCO No. 4441

Offered by:

REP. SAMOWITZ, 129<sup>th</sup> Dist.

To: Subst. House Bill No. 5577

File No. 588

Cal. No. 451

***"An Act Concerning Brownfields Redevelopment."***

1 Strike line 92 and insert the following in lieu thereof:

2 "Sec. 5. (NEW) (a) As used in this act, the following terms have the  
3 following meanings:

4 (1) "Business firm" means any business entity authorized to do  
5 business in the state and subject to tax imposed under chapter 207, 208,  
6 209, 210, 211, 212 or 212a of the general statutes.

7 (2) "Eligible municipality" means (A) a municipality with an area  
8 designated as an enterprise zone pursuant to section 32-70 of the  
9 general statutes, (B) a distress municipality as defined in subsection (b)  
10 of section 32-9p of the general statutes, or (C) a municipality which has  
11 a population in excess of one hundred thousand.

12 (3) "Eligible project" means the assessment and remediation of a  
13 brownfield exclusively in this state.

14 (4) "Eligible costs" means the costs associated with an eligible project

15 or eligible urban reinvestment project as determined and approved by  
16 the Commissioner of Economic and Community Development  
17 incurred since the income year of 2000 and thereafter.

18 (5) "Brownfield site" means an abandoned, idled or under-used  
19 industrial or commercial facility or site where development, expansion  
20 or redevelopment is complicated by real or perceived environmental  
21 contamination and which is approved as a brownfield by the chairman  
22 of the Connecticut Redevelopment Authority or the Commissioner of  
23 Economic Development in conjunction with the Commissioner of  
24 Environmental Protection.

25 (6) "Commissioner" means the Commissioner of Economic and  
26 Community Development.

27 (7) "Chairperson" means Chairperson of the Redevelopment  
28 Authority.

29 (8) "Brownfield facility" means completion of a brownfield site.

30 (9) "Eligible urban reinvestment project" means the development,  
31 redevelopment, assessment, renovation of a brownfield site that is  
32 located in an eligible municipality.

33 (10) "Income year" means (A) with respect to corporations subject to  
34 taxation under chapter 208 of the general statutes, the income year as  
35 determined under said chapter 208, (B) with respect to insurance  
36 companies, hospital and medical services corporations subject to  
37 taxation under chapter 207 of the general statutes, the income year as  
38 determined under said chapter 207, and (C) with respect to taxpayers  
39 subject to taxation under chapter 229 of the general statutes, the  
40 taxable year determined under said chapter 229.

41 (11) "Insurance" means any insurance associated with the  
42 development or redevelopment of a brownfield site.

43 (12) "Taxpayer" means any person, as defined in section 12-1 of the  
44 general statutes, whether or not subject to any taxes levied by this

45 state.

46 (13) "Project" means an eligible project or an eligible urban  
47 reinvestment project.

48 (14) "Recapture amount" means the amount by which the approved  
49 eligible costs exceeds the amount of state revenue generated by the  
50 approved investment.

51 (15) "Pro rata share" means the percentage of the amount invested  
52 by an individual investor in an approved investment bears to the total  
53 amount of the approved investment actually invested in the project, or  
54 in the case of a taxpayer to whom credits are transferred under this  
55 section, the percentage of the amount of credits transferred bears to the  
56 total amount of the approved investment actually invested in the  
57 project.

58 (16) "New job" means a job that did not exist in the business of a  
59 subject business in this state prior to the subject business's application  
60 to the commissioner for an eligibility certificate under this section for a  
61 new facility and that is filled by a new employee, but does not include  
62 a job created when an employee is shifted from an existing location of  
63 the subject business in this state to a new facility.

64 (17) "New employee" means a person hired by a subject business to  
65 fill a position for a new job or a person shifted from an existing  
66 location of the subject business outside this state to a new facility in  
67 this state, provided (A) in no case shall the total number of new  
68 employees allowed for purposes of this credit exceed the total increase  
69 in the taxpayer's employment in this state, which increase shall be the  
70 difference between (i) the number of employees employed by the  
71 subject business in this state at the time of application for an eligibility  
72 certificate to the commissioner plus the number of new employees  
73 who would be eligible for inclusion under the credit allowed under  
74 this section without regard to this calculation, and (ii) the highest  
75 number of employees employed by the subject business in this state in  
76 the year preceding the subject business's application for an eligibility

77 certificate to the commissioner, and (B) a person shall be deemed to be  
78 a "new employee" only if such person's duties in connection with the  
79 operation of the facility are on a regular, full-time, or equivalent  
80 thereof, and permanent basis.

81 (18) "Phoenix community" means the top five towns with the  
82 highest effective property tax as determined and published  
83 periodically by the Office of Policy and Management.

84 (19) "Brownfield redevelopment facility" means the completion of a  
85 brownfield redevelopment. "Completion" shall be deemed to have  
86 occurred when a brownfield redeveloper certifies to the chairman of  
87 the Connecticut Development Authority that its plan for renovation,  
88 development or improvements has been substantially completed, and  
89 that the brownfield redeveloper has met the remediation standards set  
90 by the Department of Environmental Protection or other applicable  
91 law. For the purposes of this section, the remediation standards shall  
92 be deemed to have been met when all remediation other than  
93 groundwater monitoring as required by subsection (g) of section 22a-  
94 133k-3 of the Regulations of Connecticut State Agencies has been  
95 completed.

96 Sec. 6. (NEW) The Commissioner of Economic and Community  
97 Development or the Chairperson of the Connecticut Redevelopment  
98 Authority shall determine whether the proposed investment is an  
99 eligible urban reinvestment project or an eligible project.

100 Sec. 7. (NEW) (a) The Commissioner of Economic and Community  
101 Development may, in the commissioner's discretion, approve an  
102 eligible project or an eligible urban reinvestment project for a tax credit  
103 to a business firm investing in an eligible project. The commissioner  
104 shall determine the amount of the credit awarded. Such amount may,  
105 in the commissioner's discretion, be up to one hundred per cent of the  
106 eligible costs of the project. The credit may be used against any of the  
107 taxes to which any business firm is subject.

108 (b) Any business firm may apply to the commissioner for a tax

109 credit in accordance with the provisions of this section. The proposal  
110 for such credit shall contain such information as the commissioner  
111 deems necessary to determine the eligibility of the project, and shall be  
112 in the form and manner prescribed by the commissioner.

113 (c) Project proposals may be submitted to the commissioner on an  
114 ongoing basis. Any proposal accepted by the commissioner shall be  
115 reviewed and the commissioner shall, not later than sixty days  
116 following its receipt approve or disapprove the application, or notify  
117 the applicant that additional information is required before a decision  
118 can be made. The decision of the commissioner to approve or  
119 disapprove a proposal pursuant to the provisions of this section shall  
120 be in writing, and, if the commissioner approves the proposal, the  
121 commissioner shall state the maximum credit allowable to the business  
122 firm.

123 (d) In determining whether to award a tax credit and the amount of  
124 each tax credit awarded under this section, the commissioner may  
125 consider and weigh the following factors:

126 (1) The effective property tax rate of the eligible municipality where  
127 the project is located, with preference given to projects located in a  
128 Phoenix Community;

129 (2) The density of brownfields in such municipality where the  
130 project is located;

131 (3) The general economic impact of the project upon the  
132 municipality where located and the state, including, but not limited to,  
133 job creation, potential to generate state or local tax revenue, economic  
134 linkage, land reuse and community impact;

135 (4) The relevance of the project to the state plan of conservation and  
136 development;

137 (5) The financial viability of the project;

138 (6) The financial capacity of the business making the investment;

139 (7) Other financial assistance to the applicant or the project,  
140 provided that past or future financial assistance shall not preclude  
141 eligibility of a project for credits in this act;

142 (8) Whether the investment is economically viable only with use of  
143 the tax credit authorized under this act, the effects of the project on the  
144 municipality where the investment will be made and whether the  
145 project would provide a net benefit to economic development and  
146 employment opportunities in the state, creates opportunities for  
147 affordable housing, whether the project shall generate, significant new  
148 economic activity and employment in the municipality in which the  
149 investment is to be made, and may generate additional tax revenues to  
150 the state; whether the use of the tax credit may be necessary to attract  
151 private investment to the project; and whether the business use is  
152 economically viable and shall generate direct and indirect economic  
153 benefits to the state that exceed the amount of the investment during  
154 the period for which the tax credit granted pursuant to this act are  
155 granted;

156 (9) Local community support for the project;

157 (10) Size of the project to generate substantial benefit to the state;  
158 and

159 (11) Any other information deemed relevant to the project proposed  
160 by the commissioner.

161 (e) The commissioner or chairperson may prepare a revenue impact  
162 assessment that estimates the state and local revenue that would be  
163 generated as a result of the investment. The commissioner or  
164 chairperson may prepare an economic feasibility study relative to such  
165 investment. The commissioner or chairperson may retain any such  
166 persons as it deems appropriate to conduct such revenue impact  
167 assessment or economic feasibility study.

168 (f) (1) The commissioner, upon consideration of the proposal, the  
169 revenue impact assessment and any additional information that the

170 commissioner requires concerning a proposal, may approve an  
171 investment only if it concludes that the proposal is an eligible urban  
172 reinvestment project or an eligible project and only if the fiscal impact  
173 from revenue generated completion of the brownfield facility exceeds  
174 the revenue loss from the credit in this section. If the commissioner  
175 rejects a proposal, the commissioner shall specifically identify the  
176 defects in the proposal and specifically explain the reasons for the  
177 rejection. The commissioner shall render a decision on a proposal not  
178 later than ninety days from its receipt. Failure to render a decision  
179 within ninety days shall be deemed in approval of the proposal, unless  
180 for good cause. The amount of the eligible costs so approved for tax  
181 credits associated with a brownfield facility shall not exceed the  
182 amount of state revenue, reduced by any tax credits, that will be  
183 generated pursuant to the revenue impact assessment prepared under  
184 this subsection.

185 (2) The approval of a proposal by the commissioner may be  
186 combined with the exercise of any of the commissioner's other powers,  
187 including, but not limited to, the provision of other forms of financial  
188 assistance.

189 (3) Upon approving a proposal, the commissioner may require the  
190 applicant to reimburse the commissioner or chairperson for all or any  
191 part of the cost of any revenue impact assessment or economic  
192 feasibility study used in reviewing the application.

193 (g) Upon approving a proposal, the commissioner shall issue a  
194 certificate of eligibility certifying that the applicant has complied with  
195 the provisions of this section, but not sign the certificate until the  
196 commissioner certifies that the eligible costs incurred are deemed  
197 necessary to assure that the project shall be completed and remediated  
198 in a timely fashion. The taxpayer shall be eligible for a tax credit in the  
199 year in which the commissioner issues a certificate of eligibility upon  
200 approving a proposal, or in cases where the commissioner deems  
201 necessary the commissioner may reserve tax credits in whole or in part  
202 when the approved project has met benchmarks toward completion

203 requirements established by the commissioner or in the case of  
204 remediation, has met benchmarks toward fulfilling the standards for  
205 remediation established by the Department of Environmental  
206 Protection. In determining whether the credit should be issued upon  
207 determination of eligibility on meeting benchmarks toward completion  
208 or upon completion, the commissioner shall consider the need for early  
209 capital and safeguards for recapture by the taxpayer or assignee of tax  
210 credits.

211 (h) (1) The Commissioner of Revenue Services may treat one or  
212 more corporations that are properly included in a combined  
213 corporation business tax return under section 12-223a of the general  
214 statutes as one taxpayer in determining whether the appropriate  
215 requirements under this section are met. Where corporations are  
216 treated as one taxpayer for purposes of this subsection, then the credit  
217 shall be allowed only against the amount of the combined tax for all  
218 corporations properly included in a combined return that is  
219 attributable to the corporations treated as one taxpayer.

220 (2) The amount of the combined tax for all corporations properly  
221 included in a combined corporation business tax return that is  
222 attributable to the corporations that are treated as one taxpayer under  
223 the provisions of this subsection shall be in the same ratio to such  
224 combined tax that the net income apportioned to this state of each  
225 corporation treated as one taxpayer bears to the net income  
226 apportioned to this state, in the aggregate, of all corporations included  
227 in such combined return. Solely for the purposes of computing such  
228 ratio, any net loss apportioned to this state by a corporation treated as  
229 one taxpayer or by a corporation included in such combined return  
230 shall be disregarded.

231 (i) Any taxpayer allowed a credit under this section may assign such  
232 credit to another person, provided such person may claim such credit  
233 only with respect to a calendar year for which the assigning taxpayer  
234 would have been eligible to claim such credit. The taxpayer shall file  
235 with the Commissioner of Revenue Services information requested by



236 the commissioner regarding such assignments, including, but not  
237 limited to, the current holders of credits as of the end of the preceding  
238 calendar year.

239 (j) No taxpayer shall be eligible for a credit under this section and  
240 either section 12-217e or 38a-88a of the general statutes, for the same  
241 investment. No two taxpayers shall be eligible for any tax credit with  
242 respect to the same investment, employee or facility.

243 (k) Any credit not used in the income year for which it was allowed  
244 may be carried forward for the twenty immediately succeeding income  
245 years until the full credit has been allowed.

246 (l) Not later than July first in each year that credits allowed by this  
247 section are claimed by a taxpayer with respect to approved eligible  
248 costs, the commissioner may retain such persons as said commissioner  
249 may deem appropriate to conduct a study to estimate the state revenue  
250 that is being and will be generated by such investment. Such economic  
251 impact study shall determine whether the state revenue actually  
252 generated by such investment is equal to the estimate of state revenue  
253 made at the time such investment was approved. If the sum of all state  
254 revenue actually generated by such investment is less than the amount  
255 of the total sum of tax credits claimed on the date of such analysis, the  
256 commissioner may determine from the person retained pursuant to  
257 this subsection the applicable recapture amount and may revoke the  
258 issued certificate of eligibility. The commissioner may require the  
259 taxpayer that made such approved investment to reimburse the  
260 commissioner for all or any part of the cost of any economic impact  
261 study performed under this subsection.

262 (m) (1) Any taxpayer which has claimed credits allowed by this  
263 section related to an investment concerning which the commissioner  
264 has revoked the issued certificate of eligibility, shall be required to  
265 recapture such taxpayer's pro rata share of the recapture amount as  
266 determined under the provisions of subdivision (2) of this subsection  
267 and no subsequent credit shall be allowed unless such certificate of

268 eligibility is reinstated.

269 (2) If the taxpayer is required under the provisions of subdivision  
270 (1) of this subsection to recapture its pro rata share of the recapture  
271 claimed then ten per cent of such share shall be recaptured on the tax  
272 return required to be filed for such ineligible year. The Commissioner  
273 of Revenue Services may recapture such share from the taxpayer who  
274 has claimed such credits. If the commissioner is unable to recapture all  
275 or part of such share from such taxpayer, the commissioner may seek  
276 to recapture such share from any taxpayer who has assigned credits in  
277 an amount at least equal to such share to another taxpayer.

278 (3) If the Commissioner of Economic and Community Development  
279 has revoked the certificate of eligibility issued pursuant to this section,  
280 such certificate of eligibility may be reinstated by the commissioner if,  
281 upon a request made by the taxpayer which made such approved  
282 investment, an economic impact study determines that the sum of all  
283 state revenue actually generated by such investment is greater than the  
284 amount of the total sum of tax credits claimed on the date of such  
285 analysis, provided no such request shall be made pursuant to this  
286 subsection during the calendar year in which such certificate was  
287 revoked. For the purpose of determining whether such certificate shall  
288 be reinstated, the commissioner shall, upon receipt of a request made  
289 under this subsection, obtain one such economic impact study per  
290 calendar year and may obtain additional such economic impact studies  
291 as the commissioner deems appropriate.

292 Sec. 8. (NEW) (a) Each taxpayer claiming the credits allowed  
293 pursuant to this act, shall submit to the Commissioner of Revenue  
294 Services a copy of the signed certificate of eligibility required with the  
295 taxpayer's tax return for each taxable year for which a credit is  
296 claimed.

297 (b) The Commissioner of Economic and Community Development,  
298 in consultation with the Commissioner of Revenue Services, may  
299 adopt regulations in accordance with chapter 54 of the general statutes,

300 to carry out the purposes of this section.

301 Sec. 9. Section 12-412 of the general statutes, as amended by sections  
302 16 to 27, inclusive, of public act 99-173 and section 54 of public act 99-  
303 241, is amended by adding subdivision (108) as follows:

304 (NEW) (108) Sales of and the storage, use or other consumption of  
305 tangible personal property acquired for incorporation into or other use  
306 in, and sales of and the acceptance, use or other consumption of any  
307 service described in subdivision (2) of section 12-407, as amended, that  
308 is used and consumed in the development, construction, rehabilitation,  
309 renovation or remediation of any eligible project, as defined in section  
310 5 of this act which has received written approval from the  
311 Commissioner of Economic and Community Development or the  
312 Chairperson of the Connecticut Redevelopment Authority.

313 Sec. 10. This act shall take effect from its passage, except that  
314 sections 6 to 9, inclusive, shall take effect July 1, 2000, and shall be  
315 applicable to costs incurred in calendar year 2000."